

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Chairperson Carlos Mayans at 1:30 p.m. on February 14, 1996 in Room 423-S of the Capitol.

All members were present except: Representative Kirk

Committee staff present: Bill Wolff, Legislative Research Department
Francie Marshall, Committee Secretary

Conferees appearing before the committee:

Representative Bill Mason
Representative John Ballou
Nancy Shobe, Executive Director Board of Cosmetology
Samantha Caruthers, Wichita, KS
Marvin Daniels, El Dorado, KS
Larry Buening, Board of Healing Arts

Others attending: See Guest List: Attachment 1.

Chairperson Mayans opened the hearing on **HB 2916**.

HB 2916 - Tattooing and licensure of tattoo artists and body piercing

The following proponents presented testimony supporting **HB 2916**:

Representative Bill Mason (Attachment 2),
Representative John Ballou (Attachment 3),
Nancy Shobe, Executive Director, Board of Cosmetology (Attachment 4),
Samantha Caruthers, Wichita, KS (Attachment 5),
Marvin Daniels (Attachment 6).

The following written testimonies were submitted to the committee supporting **HB 2916**:

Larry Buening, Kansas Board of Healing Arts (Attachment 7),
Donald Seifert, Management Services Director of City of Olathe (Attachment 8),
Harold Riehm, Kansas Association of Osteopathic Medicine (Attachment 9).

The hearing was opened for questions.

Members of the committee questioned both Nancy Shobe and Representative John Ballou regarding specifics of **HB 2916**. Representative Haley expressed concern that the bill would unfairly impact incidental instances of body piercing. Representative Yoh also questioned the necessity of the bill's requirement that tattoo and body piercing proprietors have at least a high school degree.

The hearing was closed on **HB 2916**.

At the completion of questions, the committee voted to move on the bill opening it up for further discussion and review of the balloon amendments that was proposed by Representative Landwehr (see attachment 10). Additional amendments was proposed by Representative Geringer, limiting coverage of the legislation to "those receiving compensation." Representative Geringer moved to amend the bill, seconded by Representative O'Connor, to insert "for compensation" on page 2, Line 3 after the word tattooing, and on Line 6 after the word piercing. The motion failed. On Motion of Representative Yoh, seconded by Representative Freeborn, the committee voted by show of hands, not to delete Line 28 on page 2. The committee adopted the recommendations proposed by the Board of Healing Arts to insert on page 1, in line 31, after the word surgery, "by the state board of healing arts". The committee also adopted the recommendation from the Board of Healing Arts to delete "medical" from line 38, page 1. All of the remaining amendments met consensus. On motion of Representative Merritt, seconded by Representative Landwehr, the committee adopted the remaining

amendments as outlined in the balloon. On Representative Merritt, seconded by Landwehr, the committee voted unanimously to pass the bill as amended. Representative Yoh volunteered to carry the legislation.

Chairperson Mayans thanked all those who presented testimony.

Next meeting is scheduled for February 15, 1996.

The meeting was adjourned at 2:50 p.m.

House Health & Human Services COMMITTEE GUEST LIST

DATE February 14, 1996

NAME	REPRESENTING
Nancy Shobe	Bd of Cosmetology
Samantha Carothers	Permanent Make-up
Marvin Daniels	individual

H + HSComm
2-14-96
atm #1

WILLIAM G. (BILL) MASON
REPRESENTATIVE, 75TH DISTRICT
BUTLER COUNTY



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
CHAIRMAN: EDUCATION
MEMBER: FEDERAL AND STATE AFFAIRS
BOARD MEMBER: KANSAS TECHNOLOGY
ENTERPRISE CORPORATION

TESTIMONY
HOUSE HEALTH AND HUMAN SERVICES COMMITTEE
February 14, 1996

Chairman Mayans and Members of the Committee:

Thank you for the opportunity to appear before you today in support of HB 2916. This bill would bring some measure of regulation to the tattoo and body piercing business.

My initial interest in this issue was prompted by the experience of Mr. Marvin Daniels who is one of my constituents and a conferee today. In follow-up on Mr. Daniel's experience, we found that there is no regulation of any kind on the tattoo industry. The legitimate artists using good sterile practices in this business agree that there should be regulations and oversight. They want to protect their business and reputation from those that practice unprofessionally.

The huge growth in body piercing prompted many questions as well. It is my belief that anytime that the skin is pierced or tattooed that there is a potential, though it may be very slight, for the transmission of a number of blood disorders, in particular Hepatitis. It is hard for me to believe that we do not have any licensing guidelines or good medical practices for this industry to follow. While I am normally an advocate for less government control, I believe that the growth of this practice and some of the abuses of the system would make it imperative that we have some measure to ensure the health and safety of the public and the reputation of the legitimate practitioner.

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attm # 2*

I appreciate Representative Ballou taking on this issue and putting together a much better bill than the original I introduced three years ago.

Thanks for hearing this bill and allowing me to testify on it. While I have received my share of ribbing on this issue over the past three years, I believe that there is a very serious problem that can be corrected by this bill. I urge you to pass out HB 2916 favorably.

While Representative Ballou is more prepared to answer questions, I would be happy to respond to any questions you may have of me.

JOHN BALLOU

REPRESENTATIVE, FORTY-THIRD DISTRICT

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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
AGRICULTURE
EDUCATION
FEDERAL AND STATE AFFAIRS

February 14, 1996

Mr. Chairman and Members of the House Public Health & Welfare Committee:

I appear before you today to ask your support of HB-2916. Rep. Mason and I sponsored this bill because we feel some basic regulation of this industry is needed to insure the health and safety of all those it concerns.

Those who practice the art of tattooing need to be educated about the possible spread of disease. Brenda Garza of the Centers for Disease Control AIDS/HIV division, was quoted as saying in the February 1996 issue of State Legislatures, "Personal Service workers who do tattooing or body piercing should be educated about how HIV is transmitted and the precaution to prevent transmission in those settings." Practitioners of this art must be made completely aware of the importance of using clean needles to prevent the spread of disease.

It is also very important for the clients of tattoo artists to be educated about possible infections that may occur. They need to be informed of the possible symptoms that may develop so they will know whether they should seek medical attention.

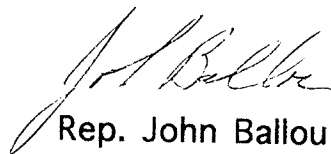
Some people may argue that regulation of this industry is not necessary because there has not been a problem so far. I feel that it is only logical to pass this basic regulation to insure we don't have a problem in the near future. The popularity of tattooing has risen

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Alt # 3*

drastically in recent years. (There are approximately 4,000 tattoo parlors operating in the United States today.) It only makes sense that if we require someone to be licensed to cut hair, we should also require at least the same of those who penetrate the skin with a needle.

Cost is not a concern when considering this legislation. The Board of Cosmetology will cover the initial shortfall from the start up costs. This short fall will be covered by proceeds collected in the subsequent years.

Members of the committee, I urge you to support this bill in order to insure the health and safety of those who choose to participate in this art form.


Rep. John Ballou
43rd District



TESTIMONY FOR HB 2916

Mr. chairman and distinguished members of the committee, I am Nancy Shobe, the Executive Director for the Board of Cosmetology. I thank you for the opportunity to provide you with the Board's position with regards to HB 2916.

The Board of Cosmetology was created, by statute, in 1929 primarily for the protection of the public, with regards to beauty salons. We have been given more and more responsibilities since that time. If the legislative body passes legislation that requires us to regulate the profession of permanent cosmetics, tattooing and body piercing, we are willing to accept that responsibility. We did not seek this legislation, however, it is apparent that it is an industry that needs oversight, since it is an invasive procedure to the skin, and could be potentially dangerous.

Representative Ballou approached the board about this legislation, and it was the consensus of the board that we could accomplish it with certain amendments. This board is very dedicated to the protection of the public. We will always attempt to be cooperative with the legislative body.

We already regulate the profession of Electrolysis, which is very similar in that it is an invasive procedure. We have rules and regulations in place that are more restrictive than beauty salons in that for electrolysis we require sterilization by means of an autoclave. We have been inspecting these establishments since 1987. Our inspectors are trained to look for and check the appropriate methods of sterilization.

In 1992 we accepted the responsibility of regulating the tanning industry. We have been successful in this mission. We believe that all establishments are licensed and taking the necessary steps to inform the public of the dangers of improper tanning.

If we are asked to regulate this profession we will do the necessary research to adopt effective rules and regulations. We will also seek our a fair, valid, reliable and legally defensible test to determine qualifications to enter the profession. We will inspect and license facilities to determine that they are clean and safe. This will give a certain amount of assurance to the public that if they visit a licensed facility that it has met minimum standards. If the person performing the procedure is licensed, that they have met minimum requirements for licensure.

Can you promise that all people receiving these services are safe?

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attn #4

No. What you can say is that you did all you could do to protect the public. This is a rapidly growing profession and if you make it clear, early in the process, that Kansas has a position, it may hinder those who will not practice safely. Whether you agree with the procedure or not, there is a safe way to perform it.

I thank you for your time, and would be happy to answer any questions that you may have.

TESTIMONY FOR HOUSE BILL 2916

Mr Chairman and distinguished members of the committee, my name is Samantha Caruthers and I am from Wichita. I have been practicing successful micro pigmentation or permanent cosmetics for the past 6 years. I have had extensive formal and informal training.

I am extremely honored to appear before you and support this legislation. I support this legislation because I believe that it is the only way to ensure protection of the public. I also am in favor of it to ensure that all people practicing are properly trained and are examined to determine that they are practicing safely.

Permanent makeup is cosmetic tattooing, which is a little more delicate, than regular tattooing, because of the facial tissue. The types of permanent makeup available are lipliner, full lip color, eyebrows, beauty marks, areola restoration, and camouflaging for discolorations and scars.

Permanent makeup is done using a machine-operated needle, which is dipped into liquid pigment. The needle is then applied to the area you will be coloring. The needle implants the permanent makeup color under the top layer of the second layer of skin, called the dermis. I'm sure you can understand that in the wrong hands the machine can do an incredible amount of damage. The damage can be permanent.

The issue of sanitation is just as critical, if not more so, in permanent makeup as in nail care. It is ironic that all states require a person be licensed to cut hair, but most states don't require any license to use a needle on a client's skin. Permanent makeup is safe as long as the person doing it uses proper sterilization and sanitation techniques. All of the needles are disposable, but anything used on a client's skin during the service that is not disposable should be sterilized in an autoclave unit.

I can assure you that I practice under these conditions, but I urge you to pass this legislation so that all people who are performing these services will do it in a manner so as not to put anyone in any danger.

I will be happy to answer any questions that you may have.

Thank you for your time.

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Attn # 5*

TESTIMONY
HEALTH AND HUMAN SERVICES
February 14, 1996

Dear Fellow Kansans:

First, I wish to thank Representative Mason for inviting me here today and I thank all of you for allowing me to speak about this new bill.

I strongly feel a bill such as this is seriously needed today. You are probably asking why it is of such importance? Let me ask, how many of you have children and grandchildren? I want you to keep them in mind as you hear my words.

There are laws governing alcohol, smoking, drugs, selling of pornographic material and many more, all on the basis of protecting our children. Granted, we, as parents, feel these measure are needed in order to exercise control and exposure of such influences on their lives. We all know that sometime, or another, they will have to make their own decisions.

However, there is one area that has been untouched and is left unattended. One that has been overlooked and long ignored and has serious consequences. That is the tattoo industry. It has no guidelines, regulation and is under no authority, unless, a small amount locally and that is not often the case. For example, Wichita's only ordinance states that parlors must be located outside city limits. There is no law governing or restricting minors access to these establishments. There are no current health codes or inspections enforced locally or state wide.

How would you feel if one of your family members came home with tattoos or parts of their body pierced? Think of the many implications as a result of no laws. Would you be concerned about the health conditions of the business? We regulate the food industry and the medical industry is under strict guidelines. What about the influence and lifestyles of some of the operators? Do you want your kinds around ex-cons? I'm not condemning the people. I'm not judging them either. Let's not turn this into a moral issue, as some will indicate this is. When the state requires

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seatbelts and helmets, they too, fall under one's own right to choose. It's time to get serious about this area.

My son did just that when he was 17. He drove the 30 miles from ElDorado to Wichita, where he receive his "glorious marks for life". He was never questioned about his age, but show what type of tattoo and how much it would cost. The thing is, it wasn't even "pretty". This didn't happen just once, but twice while underage and two more times later. All this against our wishes and his up-bringing. Check out the cost of having one done and the treatment the first few days afterward.

Lack of regulations and certification is also a loss of taxable revenue. The state taxes and raises taxes on property, fuel, alcohol cigarettes and recreation. Is there any in this area? No!

We need a bill to regulate, inspect and enforce guidelines over this industry, as well. There are too many "back alleys" and "in-home operators" who could care less about the end result. This is where a serious problem of contagious diseases exists. Do we ever hear about such cases? Probably not. The same holds true for body piercing.

I don't want my 16 year old daughter to come home with her lips and eyelids pierced. But, that is very possible because of no law in effect.

We have a moral obligation to protect our children from this industry. They need to be educated about the realities and consequences. Tattoos just don't wash off. There are a few techniques used for removal, but they are painful, expensive and leave scarring. Some people usually regret having them done after a period of time. I know my son has expressed this now after only three years of having them.

The chances of getting aids, hepatitis and other spreadable diseases is a concern of the state. Children are educated in school, by the media and other areas in the use of condoms for "safe sex" and the spread of diseases. How about the "needle"? We shouldn't encourage them, nor make it easily accessible. Our children need to be taught the dangers

involved here as well.

Maybe some of you have never noticed how wide spread this industry is. Nor have you realized the vulgarity displayed or available. Yes, there are some that are appealing and in good taste.

I challenge each and everyone of you to investigate it before you vote on this bill. Check out your home areas; visit some businesses; look at magazines that are published dealing with the business; read the ads in back; and, talk to someone who has one. Look at all aspects of this industry and see what the end result could be.

Most people don't realize there are no guidelines enforced in this business. They never gave it a thought, but are shocked and surprised when informed.

It is my understanding there is support of such a bill by owner/operators who wish to see that "back alley operators" don't jeopardize their business. There is support from the cosmetology board, which could undertake inspection of such businesses. Much greater support from communities could be enlisted, if they were aware of the facts.

It is time we face this issue head on with all seriousness. So please search your hearts and do the right thing. Vote yes

The future of our children and older people too, depend on your vote. All people are susceptible to the spread of diseases, not just kids.

In closing I must say, don't just pass a bill but enforce it. Too many others have been swept away and hidden. This is too important to forget. It does and will affect us all someday, somehow, someday.

Thank you, once again.

Marvin Daniels

KANSAS BOARD OF HEALING ARTS

BILL GRAVES
Governor

LAWRENCE T. BUENING, JR.
Executive Director



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M E M O R A N D U M

TO: House Health and Human Services Committee

FROM: Lawrence T. Buening, Jr.
Executive Director

DATE: February 14, 1996

RE: HOUSE BILL NO. 2916

Chairman Mayans and members of the committee, thank you very much for providing me the opportunity to appear before you and provide information on behalf of the State Board of Healing Arts on HB No. 2916 dealing with tattooing and the licensure of tattoo artists. While the State Board of Healing Arts takes no position on HB No. 2916, there are several provisions on which the Board wishes to express concerns.

On page 1 at lines 30 and 31, the term "physician" is defined as "a person licensed to practice medicine and surgery". While this may be interpreted to include only those licensed to practice in this State, the Board believes this should be clarified to specifically require a Kansas license. Therefore, the Board would request that the phrase, "by the state board of healing arts" be inserted after the word surgery in line 31.

On page 1 at lines 35 through 38, "tattooing" is defined to include the process therein described when performed for "medical" purposes. The Board has serious concerns about this especially since new section 2 on page 2 allows tattooing under the control and supervision of a physician. The Board urges that the term "medical" be deleted from line 38.

MEMBERS OF BOARD

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TOPEKA

HOWARD D. ELLIS, M.D., VICE-PRESIDENT
LEAWOOD

DONALD B. BLETZ, M.D., OVERLAND PARK

C.J. CONRADY, JR., ANTHONY

SERGIO DELGADO, M.D., TOPEKA

JAMES D. EDWARDS, D.C., EMPORIA

EDWARD J. FITZGERALD, M.D., WICHITA

ROBERT L. FRAYSER, D.O., HOISINGTON

JOHN P. GRAVINO, D.O., LAWRENCE

LANCE MALMSTROM, D.C., TOPEKA

LAUREL H. RICKARD, MEDICINE LODGE

EMILY TAYLOR, LAWRENCE

JOHN P. WHITE, D.O., PITTSBURG

ANNE WIGGLESWORTH, M.D., MANHATTAN

DONALD D. YODER, D.P.M., WICHITA

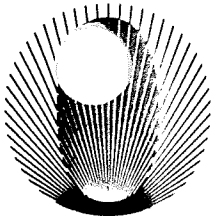
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2-14-96
altm #7*

While new section 2 prohibits tattooing or body piercing without a license, there is no penalty in HB No. 2916 for violating this section. New section 13 on page 6 makes a violation of section 3 a class A misdemeanor, but no provision makes unlicensed practice as prohibited in section 2 a crime.

Finally, the term "secretary" is defined in line 20 on page 1. That term is thereafter used on page 3, line 19; page 3, line 36; and page 4, line 1. Since the State Board of Cosmetology is given primary responsibility for administering the provisions of this bill, it is submitted it may have been some oversight or inadvertence in drafting the bill to include the term "secretary" anywhere within the bill.

Thank you for this opportunity to provide information on this bill.

bj



City of Olathe

MEMORANDUM

TO: Members of the House Health & Human Services Committee
FROM: Donald R. Seifert, Management Services Director *ms*
SUBJECT: HB 2916; Regulation and Licensing of Tattoo Artists
DATE: February 14, 1996

On behalf of the city of Olathe, thank you for the opportunity to express support for HB 2916, a bill that would provide for state regulation and licensing of persons engaged in the practice of tattooing and body piercing. Last year, Olathe city officials received some complaints from parents whose minor children had received tattoos without their knowledge. We were surprised to learn that these activities were not already regulated by the state. Prior to introduction of this bill, the city was considering a local ordinance which would require parental consent before performing these activities on any person under the age of 18. The city's proposal is much like Section 14 of the bill.

The city agrees with the much broader regulatory approach to tattooing and body piercing taken in this bill. The city has no quarrel with legitimate businesses operating properly. However, since these procedures involve penetration of the human body, it seems logical from a public health standpoint that they be done by competent individuals in licensed facilities. The state, through its Department of Health and Environment, has the necessary technical expertise to regulate these activities. HB 2916 would simply place tattooing and body piercing on par with a number of other far less invasive body procedures already regulated by the state, including barbering, cosmetology, electrolysis, and tanning salons.

Thank you again for the opportunity to support this bill. We appreciate Representative Ballou's work on this issue. The city urges the Committee to recommend it favorably for passage.

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*H & HS Comm
2-14-96
Attn # 8*

Kansas Association of Osteopathic Medicine

Harold E. Riehm, Executive Director

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(913) 234-5564 Fax

February 14, 1996

To:  Chairman Mayans and Members, House Committee on Health & Human Resources
From: Harold Riehm, Kansas Association of Osteopathic Medicine
Subject: Comment on H.B. 2916

I am unable to be present at this Hearing so please accept this written comment.

KAOM has no position in opposition or support of H.B. 2916.

We note with some curiosity, however, on page 1, line 38, reference to the the "medical" process of tattooing. We are aware of the use of tattooing for cosmetic or figurative purposes which may accompany medical processes or procedures. We question, though, use of the term "medical" as a tattooing process separate and distinct from those other uses.

Unless there is some compelling reason to retain the term "medical" we suggest its deletion so as to eliminate any present or future conflicting interpretation.

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attm # 9

HOUSE BILL No. 2916

By Representatives Ballou and Mason, Becker, Gilmore, Landwehr,
O'Connor, Tomlinson and Vickrey

2-5

HA-HS Comm
2-14-96
Camm #10

10 AN ACT relating to tattooing; licensure of tattoo artists; limitation on
11 body piercing; amending K.S.A. 74-2701 and repealing the existing
12 section.

14 *Be it enacted by the Legislature of the State of Kansas:*

15 New Section 1. As used in this act, unless the context otherwise re-
16 quires:

- 17 (a) "Board" means the Kansas state board of cosmetology.
- 18 (b) "Director" means the executive director of the board.
- 19 (c) "Department" means the department of health and environment.
- 20 (d) "Secretary" means the secretary of health and environment.
- 21 (e) "Licensed permanent color technician and tattoo artist" means a
22 person licensed under this act to practice tattooing.
- 23 (f) "Permanent color technician and tattoo artist" means a person
24 who practices tattooing pursuant to this act.
- 25 (g) "Body piercing" means puncturing the skin of a person by aid of
26 needles or other instruments designed or used to puncture the skin for
27 the purpose of inserting jewelry or other objects in or through the human
28 body, except puncturing the external part of the human ear shall not be
29 included in this definition.
- 30 (h) "Physician" means a person licensed to practice medicine and
31 surgery.
- 32 (i) "Tattoo" means the indelible mark, figure or decorative design
33 introduced by insertion of nontoxic dyes or pigments into or under the
34 subcutaneous portion of the skin upon the body of a live human being.
- 35 (j) "Tattooing" means the process by which the skin is marked or
36 colored by insertion of nontoxic dyes or pigments into or under the sub-
37 cutaneous portion of the skin so as to form indelible marks for cosmetic,
38 medical or figurative purposes.
- 39 (k) "Tattoo facility" means any room or space or any part thereof
40 where tattooing is practiced or where the business of tattooing is con-
41 ducted.
- 42 (l) "Body piercing facility" means any room space, or any part thereof,
43 where body piercing is practiced or where the business of body piercing

or permanent color technology, or both,

2-01

is conducted.

2 New Sec. 2 No person, including a permanent color technician and
3 tattoo artist, shall perform tattooing, display a sign or in any other way
4 advertise or purport to be a permanent color technician and tattoo artist
5 unless that person holds a valid license issued by the board. No person
6 shall perform body piercing, display a sign or in any other way advertise
7 or purport to be in the business of body piercing unless that person holds
8 a valid license issued by the board. This act does not prevent or affect
9 the use of tattooing or body piercing by a physician, a person under the
10 control and supervision of a physician or any other person specifically
11 permitted to use electrolysis or tattooing by law.

12 New Sec. 3. No person shall:

- 13 (a) Sell, barter or offer to sell or barter a license;
- 14 (b) purchase or procure by barter a license with intent to use it as
15 evidence of the person's qualification to practice tattooing or body pier-
16 ing;
- 17 (c) alter materially a license with fraudulent intent;
- 18 (d) use or attempt to use as a valid license a license which has been
19 purchased, fraudulently obtained, counterfeited or materially altered; or
- 20 (e) willfully make a false, material statement in an application for
21 licensure or for renewal of a license.

22 New Sec. 4. An applicant for licensure shall pay a fee established by
23 rules and regulations adopted by the board and shall show to the satis-
24 faction of the board that the applicant:

- 25 (a) Has complied with the provisions of this act and the applicable
26 rules and regulations of the secretary;
- 27 (b) is not less than 18 years of age;
- 28 (c) has a high school diploma or equivalent education;
- 29 (d) has submitted evidence of completion of education or training
30 prescribed and approved by the board as follows:

31 (1) (A) A training program under the direct supervision of a licensed
32 permanent color technician and tattoo artist if the application is for a
33 permanent color technician and tattoo artist license; or

34 (B) a training program under the direct supervision of a person li-
35 censed in a state approved by the board or a person or school in this state
36 designated by the board if the application is for a license to perform body
37 piercing; and

38 (2) if the license is applied for under either subpart (A) or (B), has
39 passed an examination approved, administered or recognized by the
40 board

41 New Sec. 5. (a) A person who holds a license shall notify the board
42 in writing of the regular address of the place or places where the person
43 performs or intends to perform tattooing or body piercing and shall keep

in a state approved by the board or a person
or school in this state designated by the
board

10-3

1 the license conspicuously posted in the place of business at all times.

2 (b) The board shall keep a record of the place or places of business

3 of each person who holds a license

4 (c) Any notice required to be given by the board to a person who

5 holds a license may be given by mailing the notice to the address of the

6 last place of business of which the person has notified the board.

7 (d) The board shall issue to each qualified applicant a license to op-

8 erate a tattoo facility or a body piercing facility and to advertise permanent

9 tattooing or body piercing services for which the facility is licensed.

10 New Sec. 6. (a) Except as otherwise provided in this section, a license

11 issued under section 11 expires one year after the date of issue unless

12 renewed by payment of the required renewal fee. The board may vary

13 the date of license renewal by giving to the applicant written notice of

14 the renewal date being assigned and by making prorated adjustments in

15 the renewal fee. If payment is transmitted by postal service, the envelope

16 must be postmarked on or before the expiration of the license. If the

17 license expires, the license may be renewed on payment of a renewal fee

18 and late penalty fee established by the board under this act.

19 (b) The ~~secretary~~ may suspend the license of any person who fails to

20 renew. A suspended license may be reactivated upon the payment of a

21 reactivation fee established by the board under this act and all past unpaid

22 renewal fees.

23 (c) A person applying for reactivation shall not be required to take

24 an examination as a condition of reactivation if the reactivation occurs

25 within three years after the date the license expired.

26 (d) All permanent color technicians, tattoo artists and persons who

27 are licensed to perform body piercing must participate in continuing ed-

28 ucation, with guidelines and effective date to be established by rules and

regulations of the board.

30 New Sec. 7. Licensed practicing permanent color technicians and

31 tattoo artists and persons who are licensed to perform body piercing shall

32 meet the following standards and any others the board may adopt by rules

33 and regulations:

34 (a) Tattooing and body piercing instruments shall be sterilized in ac-

35 cordance with methods approved by rules and regulations of the board

36 and such rules and regulations shall be approved by the secretary before

37 adoption or amendment;

38 (b) practicing permanent color technicians and tattoo artists and per-

39 sons licensed to perform body piercing shall be equipped with appropri-

ate sterilizing equipment, with availability of hot and cold running water

and a covered waste receptacle, and

41 (c) case history cards shall be kept for each client for a period of five

42 years

43

board

Provide grandfather clause that persons practicing on the effective date of the act would be without training requirements but must pass the examination.

1 New Sec. 8. The [secretary] may revoke, suspend, refuse to issue a
2 license or renewal or place on probation any licensee upon proof that a
3 person or licensee:

4 (a) Has been convicted of a violation under section 3;

5 (b) has been convicted in this or any other state of a crime related to
6 the practice of tattooing or body piercing;

7 (c) has knowingly misrepresented, misstated or failed to disclose per-
8 sonal qualifications or other information necessary to practice tattooing
9 or body piercing in any communication to the board or the department;

10 (d) has used, caused or promoted the use of any advertising matter,
11 promotional literature, warranty, label, insignia or any other representa-
12 tion, however disseminated or published, that is false, misleading or de-
13 ceptive;

14 (e) has knowingly deceived the public by acting in a manner as to
15 mislead clients as to the person's professional status;

16 (f) has employed directly or indirectly any suspended or unlicensed
17 person to perform any tattooing or body piercing covered by this act;

18 (g) has permitted another person to use the license;

19 (h) has practiced tattooing or body piercing under a false, misleading
20 or deceptive name;

21 (i) has failed, if a licensed permanent color technician and tattoo artist
22 or if licensed to perform body piercing, to maintain a business address
23 and telephone number at which the licensee may be reached during busi-
24 ness hours;

25 (j) has failed, if a nonpracticing permanent color technician and tattoo
26 artist or a person licensed to perform body piercing, to provide the board
27 with a home address and telephone number;

28 (k) has failed to properly and reasonably accept responsibility for the
29 actions of employees;

30 (l) has practiced tattooing or body piercing with a mental or physical
31 illness that affects ability to perform or endangers the public;

32 (m) has demonstrated gross incompetence in performing tattooing or
33 body piercing; or

34 (n) has violated any of the provisions of this act or rules and regula-
35 tions adopted by the board pursuant to this act.

36 New Sec. 9 The powers and duties of the board as related to this
37 act are as follows:

38 (a) To authorize all disbursements necessary to carry out the provi-
39 sions of this act;

40 (b) to determine training and experience requirements for taking the
41 examination and to supervise and administer examinations to test the
42 knowledge of applicants for licensure;

43 (c) to license persons who apply to the board and who have qualified

1 to practice tattooing or body piercing;

2 (d) to rent facilities when necessary to carry out the examination of
3 applicants for licensure;

4 (e) to renew licenses;

5 (f) to suspend or revoke licenses or place licensees on probation in
6 the manner provided by this act;

7 (g) to appoint representatives to conduct or supervise the examina-
8 tion of applicants for licensure;

9 (h) to designate the time and place for examining applicants for li-
10 censure;

11 (i) to carry out, together with the department or separately, the pe-
12 riodic inspection of facilities of persons who are licensed to practice tat-
13 tooing or body piercing;

14 (j) to issue a tattoo facility license to qualified applicants upon com-
15 pliance with this act;

16 (k) to issue a body piercing facility license to qualified applicants upon
17 compliance with this act; and

18 (l) to appoint or employ subordinate employees.

19 New Sec. 10. (a) The board shall adopt rules and regulations to pre-
20 scribe education and training standards for the practice of tattooing and
21 separate education and training standards for the licensure of body pierc-
22 ing.

23 (b) An applicant seeking licensure as a permanent color technician
24 and tattoo artist or to be licensed to perform body piercing shall be re-
25 quired to demonstrate safety, sanitation and sterilization techniques by
26 means of an inspection conducted by the board to test the applicant's
27 knowledge of infection control practices and requirements.

28 New Sec. 11. (a) The board shall assess, by rules and regulations
29 adopted by the board, the following fees and any other fees necessary to
30 carry out the provisions of this act:

31 (1) Application fee;

32 (2) examination fees;

33 (3) reexamination fees;

34 (4) reciprocity fee;

35 (5) license fee;

36 (6) license renewal fee, active and inactive;

37 (7) late fee;

38 (8) reactivation fee;

39 (9) duplicate license fee;

40 (10) demonstration permit;

41 (11) tattoo facility fee and renewal fee, active or inactive; and

42 (12) body piercing facility fee renewal fee.

43 (b) The board shall license each applicant, without discrimination.

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1 who proves to the satisfaction of the board, fitness for such licensure as
2 required by this act and upon payment of a fee established by the board
3 under this section. Except as provided in section 6, the board shall issue
4 to the applicant a license that expires one year after the date of issuance.

5 (c) The board shall establish all fees under this act. The fees and
6 charges established under this section shall not exceed the cost of admin-
7 istering the regulatory program under this act pertaining to the purpose
8 for which the fee or charge is established.

9 New Sec. 12. The board, the director or a person authorized by the
10 board shall remit all moneys received by or for it from fees, charges or
11 penalties to the state treasurer at least monthly. Upon receipt of any such
12 remittance the state treasurer shall deposit the entire amount thereof in
13 the state treasury. Twenty percent of each such deposit shall be credited
14 to the state general fund and the balance shall be credited to the ~~tattoo~~
15 ~~artist and body piercing fee fund.~~ All expenditures from such fund shall
16 ~~be made in accordance with appropriation acts upon warrants of the di-~~
17 ~~rector of accounts and reports issued pursuant to vouchers approved by~~
18 ~~the board or by a person or persons designated by the board.~~

cosmetology fee fund

19 New Sec. 13. Violation of section 3 is a class A misdemeanor.

20 New Sec. 14. No person shall perform body piercing or tattooing on
21 or to any person under 18 years of age without the prior written and
22 notarized consent of the parent or court appointed guardian of such per-
23 son and the person giving such consent must be present during the body
24 piercing or tattooing procedure. The written permission and a copy of
25 the letters of guardianship when such permission is given is granted by a
26 guardian, shall be retained by the person administering such body pierc-
27 ing or tattooing for a period of five years. Violation of this section is a
class C misdemeanor.

29 Sec. 15. K.S.A. 74-2701 is hereby amended to read as follows: 74-
30 2701. (a) There is hereby created the Kansas state board of cosmetology,
31 which shall be composed of five members, appointed by the governor, to
32 regulate the practice of the profession of cosmetology in Kansas. Subject
33 to the provisions of K.S.A. 1992 1995 Supp. 75-4315c and amendments
34 thereto, a member shall be appointed from each congressional district
35 and the remainder from the state at large. Not more than three members
36 shall be of the same political party. Two members shall be licensed op-
37 erators of a shop and shall also be registered cosmetologists; two members
38 shall be registered cosmetologists; and one member shall represent the
39 general public interest, except that no manufacturer, wholesaler or re-
40 tiler of cosmetic supplies or equipment used by the profession of cos-
41 metology, or any representative of such manufacturer, wholesaler or re-
42 tiler, shall become a member of the board, nor shall any two members
43 of the board be graduates of the same system or school of beauty culture.

Add a civil penalty section like K.S.A.
74-7039 and provide board in addition to
civil penalties for violations of the act the
authority to assess costs of investigations
and to assess hearing costs.

6-01

1 (b) Each member of the board shall serve a term of three years, and
2 until a successor is appointed and qualifies. The board shall annually se-
3 lect a chairperson from its membership.

4 (c) The board of cosmetology shall appoint an executive director who
5 shall serve at the pleasure of the board. The executive director shall also
6 be the treasurer of the board and shall keep a record of the proceedings
7 and perform such other duties as the board shall direct. The executive
8 director shall be a practicing cosmetologist and have the same educational
9 qualifications which are required of an instructor of cosmetology.

10 (d) When a vacancy occurs by death or resignation, appointees to the
11 board shall have the prescribed qualifications. All vacancies in the board
12 shall be filled by the governor for the unexpired terms. The members of
13 the board shall take the oath of office prescribed for public officers before
14 entering upon the discharge of their duties.

15 (e) *The board of cosmetology shall have an advisory member ap-*
16 *pointed by the governor who shall be qualified in the area of permanent*
17 *color technician and tattooing or in the area of body piercing. Such mem-*
18 *ber shall serve for a term of three years and until a successor is appointed*
19 *and qualified. The advisory member may attend board meetings, but shall*
20 *not be a voting member of the board*

21 Sec. 16. K.S.A. 74-2701 is hereby repealed.

22 Sec. 17. This act shall take effect and be in force from and after its
23 publication in the statute book.